

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

921 WRIT PETITION NO.250 OF 2023

PREMCHAND SHIVLAL CHAVAN
VERSUS
DILIP MURLIDHAR SONAWANE AND OTHERS

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Mr. Ravindra V. Gore, Advocate for the Petitioner.

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CORAM : SHARMILA U. DESHMUKH, J.
DATED : JANUARY 07, 2023.

PER COURT :

1. Heard learned counsel for the Petitioner.
2. By the order of 3rd September, 2022, no evidence order was passed against the Petitioner, who was the owner of the offending vehicle involved in the accident. An application came to be filed on 27th September, 2022 for setting aside the order of closing the evidence. The learned counsel for the Petitioner submits that the claimant's evidence was closed on 4th July, 2022 and thereafter, the evidence of the Insurance Company was led. He would further submit that the matter was fixed for recording the evidence of the Petitioner on 7th August, 2022 and on 3rd September, 2022, and the Petitioner as well as his counsel were not present on both these days and as such, the order of closing of evidence came to be passed on 3rd September, 2022.

3. Perusal of the impugned order dated 27th September, 2022 shows that the application for setting aside order of closure of evidence has been rejected on the ground that the application does not give sufficient explanation. Perusal of the application shows that the Advocate for the Petitioner could not remain present, as he was held up in other Court. Considering the above, in order to give a fair opportunity to the Petitioner to lead evidence, the impugned order dated 27th September, 2022 is quashed and set aside, subject to the costs of Rs.5000/-, to be paid by the Petitioner to the Claimant.

4. Considering the fact that the proceedings arise in Motor Accident Claim Petition, and the learned counsel for the Petitioner is also seeking stay to the proceedings before Motor Accident Claim Tribunal, as the matter is now posted for final hearing, no notice has been issued to Respondent to ensure expeditious disposal of MACP.

5. The Writ Petition is accordingly allowed in the above terms.

(SHARMILA U. DESHMUKH, J.)